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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/506,078	02/16/2000	Manuel Campos	PC10202A	5616

23913 7590 11/19/2002

PFIZER INC
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EXAMINER

FOLEY, SHANON A

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 11/19/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/506,078

Applicant(s)

CAMPOS ET AL.

Examiner

Shanon Foley

Art Unit

1648

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): 112 first and second paragraph rejections.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-17.Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 14,15,16.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The rejection under 35 USC section 103 is maintained for reasons of record.

Applicant argues that there is no motivation to substitute the strong immunogenic gD of Mittal et al. with the E. coli P-fimbrial subunit portion of Van der Zee et al. to provoke an immune response against GnRH to protect against BHV-1 infection. Applicant further argues that there is no evidence that fusion of the two proteins would induce the desired immune response. Applicant also asserts that the Office uses impermissible hindsight reasoning to combine the prior art references.

Applicant's arguments as well as a careful review of the references have been considered, but are unpersuasive in obviating the teachings of the prior art. It is maintained that the skilled artisan would have had a motivation for substituting the subunit portion of Van der Zee et al. with the BHV-1 gD of Mittal et al. to protect cows against BHV-1. The skilled artisan would also have had a reasonable expectation for producing the claimed invention because Van der Zee et al. teaches that a strong immunogenic carrier is required to induce an immune response to GnRH and Mittal et al. teaches that BHV-1 gD is a strong immunogen, see the citations provided in previous Office actions. Therefore, the combined references account for the knowledge of the skilled artisan available at the time the invention was made and what would have been suggested to the ordinary artisan presumed to be familiar with the prior art. In conclusion, it is maintained that the combination of the references would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made.



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